

REMARKS

Status of the Claims

Claims 1-8 are presented. No claims are amended. No claims are cancelled. No new claims are added.

No new matter has been introduced.

Summary of the Invention as Claimed

The invention as now claimed is directed to microemulsions and to articles and formulations containing the microemulsion. An important aspect of the invention as now claimed is the requirement of a composition having **a mean particle diameter of 5 to 20 nm**. The composition includes as components (a) at least one alkyl and/or alkenyl oligoglycoside carboxylic acid salt; and (b) at least about 5% of an oil component, where the sum of components (a) + (b) is at least about 10% weight of the composition as a whole.

Another aspect of the invention as claimed is an article impregnated with the above microemulsion, specifically a wet wipe, wherein the microemulsion is diluted to a water content of at least 60% prior to impregnation (claims 4-7).

Another aspect of the invention as claimed is a cosmetic formulation incorporating the above microemulsion (claim 8).

Nonstatutory Double Patenting Rejection

Claims 1-5 and 8 were provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-6 of co-pending US Patent Application No. 10/589,772, Attorney Docket No. C 2818 PCT/US2, in view of Simonnet et al. (US 6,689,371; "Simonnet"). Applicants respectfully traverse this rejection.

Although applicants do not necessarily agree with the Examiner's characterizations of Simonnet or the substantive basis for the rejection, applicants note that this rejection is provisional, as it must be, since there has not an indication of allowable subject matter either in the present application or in the

cited application. Accordingly, the filing of a disclaimer at this time is not required. In the event that allowable subject matter is indicated by the Examiner in connection with respect to either the present application or the cited application, Applicants will consider at that time the possibility of filing a Terminal Disclaimer under 37 CFR 1.321(c).

Rejections under 35 U.S.C. § 103(a)

Claims 1-3 and 8 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Milstein et al. (WO 99/24538; "Milstein") in view of Simonnet. Applicants respectively traverse the rejection. Claims 4-7 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Milstein in view of Simonnet, further in view of Weuthen et al. (US Publication No. 2003/0124373; "Weuthen"). Applicants respectively traverse each of these rejections.

As mentioned above, the invention as now claimed is directed to **microemulsions** and to articles containing the microemulsion. An important aspect of the invention as now claimed is the requirement of a composition having **a mean particle diameter of 5 to 20 nm**. Furthermore, the claims require that the microemulsion comprises at least one alkyl and/or alkenyl oligoglycoside carboxylic acid salt, and at least about 5% by weight of an oil component. None of the items cited by the Examiner discloses or even suggests the subject matter of these claims.

Milstein is directed to a surfactant and a personal care product containing a surfactant of a particular formulation. However, in contradistinction to the present claims, there is no disclosure or suggestion in Milstein of microemulsion, much less a microemulsion having a specific mean particle size as required by the present claims. Not only does Milstein fail to teach or suggest these two important claim requirements, it fails to disclose a specific amount of the oil component, as acknowledged by the Examiner. Furthermore, even the examples of Milstein (pages 24-29) show formulations with oil contents much less than the 5% minimum required by the claims now pending. Indeed one

advantage of applicants' **microemulsions** is the ability to incorporate relatively large amounts of oil components.

Simonnet discloses nanoemulsions – **not microemulsions**.

Furthermore, Simonnet discloses a nanoemulsion comprising sugar fatty acid esters and/or ethers. Simonnet **does not disclose** the alkyl/alkenyl oligoglycoside carboxylate salts as required by the present claims. Applicants' sugar surfactants are **anionic** surfactants, whereas those of Simonnet are **nonionic**, having a different charge state. It is not obvious that one skilled in the art at the time of the invention could even produce nanoemulsions from anionic surfactants based on the disclosure of Simonnet using the components of Milstein, much less the microemulsions of the present claims. Thus, the citation of Simonnet fails to overcome the substantial deficiencies of Millstein.

As observed by the Examiner, the combined teachings of Simonnet and Milstein do not specifically teach a wet wipe impregnated with a microemulsion.

Weuthen discloses a moist wipe impregnated with linear and/or branched alcohol polyglycol ethers which must contain at least one mole of propylene oxide ($y = 1-40$), preferably in combination with alkyl oligoglucosides. Weuthen does not disclose the alkyl/alkenyl oligoglycoside carboxylate salts of applicants. In addition, Weuthen requires specific alcohol polyglycol ethers for the wet wipes of his invention, in contrast to applicants' care articles/wipes (instant claims 4 and 5). Also, Weuthen does not disclose nanoemulsions. Thus the deficiencies of Milstein and Simonnet are not cured by adding Weuthen.

In summary, no combination of Milstein, Simonnet and/or Weuthen would lead one skilled in the art at the time the invention was made, to applicants' invention without the benefit of applicants' disclosure. This is impermissible hindsight reconstruction.

Conclusion

In view of the above claim amendments and remarks, Applicants believe that the pending claims as amended are in condition for allowance. The

Examiner is respectfully requested to reconsider, withdraw the rejections and allow the claims.

If any additional fees are required in support of this application, authorization is granted to charge our Deposit Account No. 50-1943.

Respectfully submitted,

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